

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT ALSPAUGH, JR.,

Plaintiff,

v.

Case No. 2:06-cv-111
HON. R. ALLAN EDGAR

REX MCCONNELL, et al.,

Defendants.

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OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORTS AND RECOMMENDATION

The Court has reviewed the Reports and Recommendation filed by the United States Magistrate Judge in this action on October 17, 2007. The Reports and Recommendation were duly served on the parties. The Court has received objections from Plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Reports and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff asserts that he did not receive medical treatment for his broken toe or for his hemorrhoids. Plaintiff also alleges a denial of treatment for an alleged assault. Plaintiff, however, did receive treatment for each of the asserted medical issues. Plaintiff cannot establish that any defendant was deliberately indifferent to Plaintiff's medical needs. Plaintiff has also asserted that his Eighth Amendment rights were violated when Defendants used excessive force. Plaintiff concedes that defendants had the right to restrain him after he kicked the shower cart, but he argues that Defendants went too far, causing him unnecessary pain and injury. Contrary to Plaintiff's

assertions, Plaintiff has not established that a genuine issue of material fact existed which could show that Defendants acted with deliberate indifference causing Plaintiff unnecessary harm. Similarly, Plaintiff has failed to show that he is entitled to injunctive relief.

THEREFORE, IT IS ORDERED that the Reports and Recommendation of the Magistrate Judge (Docket #185 and #186) are approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the motion to dismiss filed by Defendants Hofbauer and Alto (Docket #135) and the motion for summary judgment filed by Defendants Ewer, Hill, Champion, Kimsel, Mayotte, Kangas, Jordan and Tallio (Docket #141) are GRANTED and Defendants Hofbauer, Alto, Ewer, Hill, Champion, Kimsel, Mayotte, Kangas, Jordan and Tallio are DISMISSED from this case.

IT IS FURTHER ORDERED that Plaintiff's Fed. R. Civ. P. 56(f) motion (Docket #161), motion to strike (Docket #167), and motion for a temporary restraining order and/or preliminary injunction (Docket #170) are DENIED.

Dated: 3/11/08

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE